



COUNTY OF LOS ANGELES
CLAIMS BOARD
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

September 15, 2003

Maria M. Oms
Auditor-Controller
Lloyd W. Pellman
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Tina B. and Ruthie O. v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 266 743

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$382,500.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Department of Children and Family Services.

Enclosed is the settlement request and a summary of the facts of the case.

The Corrective Action Report will be submitted under separate cover by the Department of Children and Family Services.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO/fs1

Enclosures

MEMORANDUM

August 11, 2003

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: ELIZABETH M. KESSEL
Kessel and Associates

ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Tina B. and Ruthie O. v. County of Los Angeles
Los Angeles Superior Court Case No. BC 266743

DATE OF
INCIDENT: December 1998 through November 2000

AUTHORITY
REQUESTED: \$382,500

COUNTY
DEPARTMENT: Department of Children and Family Services

CLAIMS BOARD ACTION:

☐ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval

ROCKY A. ARMFIELD Chief Administrative Office

LLOYD W. PELLMAN County Counsel

MARIA M. OMS Auditor-Controller

on _____, 2003

SUMMARY

This is a recommendation to settle for \$382,500, a lawsuit filed by Tina B. and Ruthie O., who were sexually molested in the home of their mother while under the supervision of the Department of Children and Family Services ("DCFS").

LEGAL PRINCIPLES

A public entity and its employees that supervise dependent children of the Juvenile Court may be held liable for injuries to those children, if the employees fail to discharge a duty that is mandated by a statute, the statute is intended to protect against the kind of risk of injury suffered by the child, and the breach of the mandatory duty is a proximate cause of the injury.

SUMMARY OF FACTS

Tina B. became a dependent child of the Juvenile Court in May 1987, and Ruthie O. in June 1989. Both of the children were removed from their mother's custody based on the mother's drug use, and inability to care for them.

In 1994, the children's mother married a man named Zeddie Morgan. In August 1994, she and Zeddie Morgan had a child who was born with symptoms of drug withdrawal, and was taken into protective custody. At that time, DCFS learned that Zeddie Morgan had an extensive criminal history, including convictions for drug offenses and rape, and DCFS reported the criminal history to the Court.

In 1995, the children's mother asked DCFS if she could start having visits with Tina B. and Ruthie O., even though she had very little contact with either of them since they had been initially taken into protective custody.

From 1995 through November 26, 2000, the Court allowed Tina B. and Ruthie O. to have regular visits with their mother, who was still married to, and living with, Zeddie Morgan. DCFS objected to most of the visits based on Zeddie Morgan's criminal history. However, there were occasions where DCFS either failed to include Zeddie Morgan's criminal history in their reports to the Court, or actually recommended to the Court that Tina B. and Ruthie O. be allowed to visit or reside with their mother and Zeddie Morgan.

On November 26, 2000, Tina B. and Ruthie O. ran away from their mother's home and disclosed for the first time that they had both been regularly sexually molested by Zeddie Morgan since December 1998. Zeddie Morgan is currently serving a fifty-year sentence for his crimes against Tina B., Ruthie O., and their sister Shonice R.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Tina B.'s emotional distress	\$ 500,000
Ruthie O.'s emotional distress	<u>\$ 500,000</u>
Total	<u>\$1,000,000</u>

The settlement calls for the County to pay \$382,500 to Tina B. and Ruthie O. for all of their claims for damages, costs, and attorney's fees. One of Tina B. and Ruthie O.'s sisters has a separate claim against the County which has tentatively settled, and will also be presented to your Board for approval of the tentative settlement.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement.

Expenses incurred by the County in defense of this matter are attorney's fees of \$57,100 and \$8,098 in costs.

EVALUATION

The facts of this case are in dispute. DCFS will contend that they informed the Court of Zeddie Morgan's criminal history, and recommended against any contact with Zeddie Morgan. However, the evidence will also show that DCFS in some instances failed to include Zeddie Morgan's criminal history in some of its reports to the Court, and on occasion actually recommended to the Court that Tina B. and Ruthie O. be allowed to visit or reside with their mother and Zeddie Morgan.

A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement.

We join with our third-party administrator, Carl Warren and Company, and our private counsel, Kessel and Associates in recommending a settlement of this matter in the amount of \$382,500. The Department of Children and Family Services concurs in this settlement recommendation.

RHG:scr